

J. Matthew Donohue, OSB No. 065742

matt.donohue@hklaw.com

Shannon Armstrong, OSB No. 060113

shannon.armstrong@hklaw.com

Kristin Asai, OSB No. 103286

kristin.asai@hklaw.com

HOLLAND & KNIGHT LLP

601 SW Second Avenue, Suite 1800

Portland, OR 97204

Telephone: 503.243.2300

Fax: 503.241.8014

Attorneys for Pacific Premier Bank

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

DIANE ANDERSON, trustee of the Diane L. Anderson Revocable Trust; BONNIE BUCKLEY; trustee of the Bonnie K. Buckley IRA; CARL AND KIRBY DYESS, trustees of the Dyess Family Trust; PETER KOUBECK, an individual and trustee of Peter L. Koubeck IRA; MICHAEL PETERSON, trustee of the Michael T. Peterson IRA; and ED WILSON, an individual,

Plaintiffs,

v.

DAVIS WRIGHT TREMAINE LLP, a Washington limited liability partnership; ROSS MILES, an individual; MAUREEN WILE, an individual; and PACIFIC PREMIER BANK, a California chartered bank, and RIVERVIEW COMMUNITY BANK, a Washington chartered bank,

Defendants.

Case No. 3:20-cv-01194-AR

**STIPULATED MOTION AND ORDER
DISMISSING CLAIMS AGAINST
PACIFIC PREMIER BANK AND
RIVERVIEW BANK**

CERTIFICATE OF COMPLIANCE WITH LR 7-1

Pursuant to LR 7-1, counsel for defendant Pacific Premier Bank (“Pacific Premier”) certifies that they conferred with all parties concerning the subject of this motion. Plaintiffs and defendant Riverview Bank (“Riverview”) join and stipulate to this motion. Defendants Davis Wright Tremaine LLP (“DWT”) and Ross Miles do not oppose this motion. Defendant Maureen Wile has not appeared in this matter.

STIPULATED MOTION

Pursuant to Fed. R. Civ. P. 41(a), Pacific Premier, Riverview, and plaintiffs jointly move for dismissal with prejudice of plaintiffs’ claims against Pacific Premier and Riverview.

This is a complex securities case involving an alleged Ponzi scheme that existed for nearly two decades, fifteen investment funds currently under receivership in Washington, and the banks’ alleged involvement in the sale of real estate securities by virtue of their loans to the managers of the investment funds. On August 31, 2023, the Clark County Superior Court overseeing the receivership granted the motion by Clyde A. Hamstreet & Associates, LLC (“Receiver”), the court-appointed receiver, for approval of a \$19 million settlement between the Receiver, Pacific Premier, and Riverview. (Dkt. 140-15.) In approving the settlement, the court issued an order (“First Settlement Order”) concluding, among other things, that the proposed settlement was “in all respects, fair, reasonable, and equitable, and in the best interests of the Investors and other creditors of the [investment funds] as a whole.” (*Id.* at 12.) As part of the First Settlement Order, the court also issued a bar order that permanently “barred and enjoined” all investors with allowed claims in the receivership, including plaintiffs, from “directly or indirectly asserting, initiating, maintaining, continuing, intervening in, encouraging, or otherwise prosecuting” any claim against Pacific Premier and Riverview “including claims that have been

asserted or could be asserted” in this case. (*See id.* at 12–14.) Plaintiffs later appealed the First Settlement Order to the Washington Court of Appeals.

On June 21, 2024, the Clark County Superior Court approved a subsequent settlement between plaintiffs, Pacific Premier, Riverview, and the Receiver (“Second Settlement Order”). (*See Ex. 1.*) Under that settlement, plaintiffs agreed to dismiss their appeal of the First Settlement Order and to dismiss their claims against Pacific Premier and Riverview in this Court, and Pacific Premier and Riverview agreed to withdraw their objections to plaintiffs’ \$3.6 million settlement with DWT (“DWT Settlement”) and to file satisfactions for their judgments against plaintiffs arising from contempt of the First Settlement Order. (*See id.*) The Second Settlement Order therefore provides a mechanism for plaintiffs and other investors to promptly receive money from the First Settlement Order and the DWT Settlement,¹ and for Pacific Premier and Riverview to obtain a dismissal with prejudice of plaintiffs’ claims against them in this matter.

Accordingly, based on the Second Settlement Order, the parties jointly request that the Court issue an order dismissing plaintiffs’ claims against Pacific Premier and Riverview with prejudice without an award of fees or costs to any party. Plaintiffs’ claims against DWT, Ross Miles, and Maureen Wile will remain pending.

STIPULATED AND AGREED on June 27, 2024:

¹ Plaintiffs filed this action as a putative class action, and though a settlement Class for the DWT Settlement has been certified, the Court has not certified a class action as to claims against defendants other than DWT. The moving parties acknowledge that the statute of limitations for any putative class members’ Oregon Securities Law claims against Pacific Premier and Riverview has likely run. Any prejudice to the putative class members is substantially mitigated by the fact that (1) the DWT Settlement will be implemented and distributed to investors who are members of a settlement Class without any further delay (appeals of the District Court orders would have taken months if not years), and (2) through the Receivership action in Clark County Superior Court, almost all the putative Class members will now share in the \$19 million settlements between the Banks and the Receiver, and will receive substantial distributions.

LARKINS VACURA KAYSER LLP

HOLLAND & KNIGHT LLP

By: s/ John C. Rake

Christopher J. Kayser, OSB No. 984244
cj kayser@lvklaw.com
John C. Rake, OSB No. 105808
jrake@lvklaw.com
121 SW Morrison St., Suite 700
Portland, OR 97204
Telephone: 503 222-4424

John W. Stephens, OSB No. 773583
Michael J. Esler, OSB No. 710560
ESLER STEPHENS & BUCKLEY, LLP
121 SW Morrison Street, Suite 700
Portland, Oregon 97204
Telephone: 503-223-1510
Facsimile: 503-294-3995
Email: stephens@eslerstephens.com
esler@eslerstephens.com

Attorneys for Plaintiffs

By: s/ Kristin Asai

J. Matthew Donohue, OSB No. 065742
Email: matt.donohue@hklaw.com
Shannon Armstrong, OSB No. 060113
Email: shannon.armstrong@hklaw.com
Kristin Asai, OSB No. 103286
Email: kristin.asai@hklaw.com
601 SW Second Avenue, Suite 1800
Portland, OR 97204
Telephone: 503.243.2300
Fax: 503.241.8014

Attorneys for Pacific Premier Bank

PATERNOSTER FARNELL & GREIN, LLP

By: s/ Charles J. Paternoster

Charles J. Paternoster, OSB No. 024186
Email: cpaternoster@pfglaw.com
1030 SW Morrison Street
Portland, OR 97205

Attorneys for Defendant Riverview Bank

ORDER

Based on the stipulation, plaintiffs' claims against Pacific Premier and Riverview are hereby dismissed with prejudice and without an award of costs or fees to any party.

IT IS SO ORDERED.

Dated this _____ day of June, 2024.

The Honorable Marco A. Hernández
United States District Judge